

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Transportation

BILL: CS/SB 628

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Boating Safety

DATE: March 10, 2025 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Shutes</u>	<u>Vickers</u>	<u>TR</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 628 amends several statutes related to boating safety and provides that this act may be cited as “Lucy’s Law.”

The bill amends s. 327.30, F.S., to provide penalties for leaving the scene of a vessel accident or injury. If a person leaves the scene and the accident results in:

- Property damage only, the person commits a first degree misdemeanor.¹
- Injury to a person other than serious bodily injury, the person commits a third degree felony.
- Serious bodily injury, the person commits a second degree felony.²
- The death of another person or an unborn child, the person commits a first degree felony.³
 - A person commits a third degree felony if he or she was operating a vessel involved in an accident that results in death of another person or an unborn child and provides a false statement to an investigating law enforcement officer.⁴

¹ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 and 775.083, F.S.

² A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

³ A first degree felony is punishable by a term of imprisonment not to exceed 30 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

⁴ Section 327.30, F.S.

The bill amends s. 327.33, F.S., to provide criminal penalties for careless operation of a vessel. Current law provides that careless operation of a vessel is a noncriminal infraction. Under the bill, careless operation of a vessel that:

- Does not result in an accident, is a noncriminal infraction.
- Results in an accident that does not cause serious bodily injury, is a third degree felony.
- Results in an accident that causes serious bodily injury, is a second degree felony.
- Results in an accident that causes the death of another person or an unborn child, is a first-degree felony.

The bill creates s. 327.35105, F.S., to provide that the driver license of a person who is convicted of a violation of reckless or careless operation of a vessel,⁵ or boating under the influence (BUI)⁶ must be suspended until all orders of the court have been satisfied.

The bill amends ss. 357.02 and 327.54, F.S., to revise the definition of “livery vessel,” and “livery.”

The bill amends s. 782.072, F.S., to revise the definition of the term “vessel homicide” to include the death of an unborn child caused by injury to the mother.

The bill may have a positive indeterminate impact. *See Section V. Fiscal Impact Statement.*

The bill is effective on July 1, 2025.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state’s fish and wildlife resources.⁷ Chapter 327, F.S., concerning vessel safety, is enforced by the FWC’s Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁸

⁵ Section 327.33, F.S., provides that it is unlawful to operate a vessel in a reckless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person is guilty of reckless operation of a vessel. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). A person who violates this subsection commits a first degree misdemeanor.

⁶ Section 327.35, F.S., provides that a person is guilty of boating under the influence and is subject to punishment if the person is operating a vessel within this state and the person is under the influence of alcoholic beverages, and any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person’s normal faculties are impaired. Such person commits a first degree misdemeanor.

⁷ FLA. CONST. art. IV, s. 9. There shall be a fish and wildlife conservation commission, composed of seven members appointed by the governor, subject to confirmation by the senate for staggered terms of five years. The FWC shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the FWC shall be prescribed by general law.

⁸ Section 327.70(1), F.S.

The Division of Law Enforcement manages the state's waterways to ensure boating safety for Florida residents and visitors.⁹ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.¹⁰

Boating Crimes

Vessel Homicide

Vessel homicide is the killing of a human being by the operation of a vessel by another in a reckless manner likely to cause the death of, or great bodily harm to, another.¹¹ Vessel homicide is generally a second degree felony;¹² however, it is a first degree felony if:

- At the time of the accident, the person knew or should have known, that the accident occurred;¹³ and
- The person failed to give information and render aid as required.¹⁴

Careless and Reckless Boating

Generally, a person may not operate a vessel in a reckless or careless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person, commits the first degree misdemeanor offense of reckless operation of a vessel.¹⁵

A person must operate a vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or to endanger the life, limb, or property of another person due to vessel overloading or excessive speed. Failing to operate a vessel in this manner is the noncriminal infraction of careless operation.¹⁶

⁹ Fish and Wildlife Conservation Commission (FWC), *Boating*, available at <https://myfwc.com/boating/> (last visited February 27, 2025).

¹⁰ Fish and Wildlife Conservation Commission (FWC), *Law Enforcement*, available at <https://myfwc.com/about/inside-fwc/le/> (last visited February 27, 2025). The FWC's Division of Law Enforcement is responsible for protecting Florida's natural resources, including fish, wildlife and the environment, while providing a safe atmosphere for residents and visitors to recreate. Fish and Wildlife Conservation Commission (FWC) officers have full police powers and statewide jurisdiction. They patrol rural, wilderness and inshore and offshore areas and are often the sole law enforcement presence in many remote parts of the state. The Division of Law Enforcement has cooperative agreements with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Officers are also cross-deputized to enforce federal marine fisheries and wildlife laws, thus ensuring state and federal consistency in resource-protection efforts.

¹¹ Section 782.072, F.S.

¹² Section 782.072(1), F.S.

¹³ Section 782.072(2)(a), F.S.

¹⁴ Section 782.072(2)(b), F.S.

¹⁵ Section 327.33(1), F.S.

¹⁶ Section 327.33(2), F.S.

Leaving the Scene

It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he or she can do so without serious danger to the operator's own vessel, crew, and passengers, to render assistance to other persons. Additionally, he or she must give his or her name, address, and identification of his or her vessel in writing to any person injured and to the owner of any property damaged. The operator must also take all reasonable steps to locate and notify the owner or person in charge of an unattended vessel involved in an accident.¹⁷

A person commits a second degree misdemeanor for leaving the scene of a vessel involved in an accident, if such accident results in property damage only.

A person commits a third degree felony for leaving the scene of a vessel involved in an accident, if such accident results in personal injury.¹⁸

Boating Under the Influence

A person is guilty of BUI if the person is operating a vessel in this state and the person:

- Is under the influence of an alcoholic beverage, any chemical substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., when affected to the extent that the person's normal faculties are impaired;¹⁹
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;²⁰ or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.²¹

The criminal penalties for BUI vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.²²

The penalties for a first or second BUI offense includes:

- A fine of not less than \$500 or more than \$1,000 for a first conviction.²³
- A fine of not less than \$1,000 or more than \$2,000 for a second conviction.²⁴
- Imprisonment for not more than 6 months for a first conviction.²⁵
- Imprisonment for not more than 9 months for a second conviction.²⁶
- A period of probation not exceeding one year for a first conviction.²⁷
- A mandatory 50 hours of community service,²⁸ and a mandatory 10-day vessel impoundment or immobilization for a first conviction.²⁹

¹⁷ Section 327.30(1), F.S.

¹⁸ Section 327.30(5), F.S.

¹⁹ Section 327.35(1)(a), F.S.

²⁰ Section 327.35(1)(b), F.S.

²¹ Section 327.35(1)(c), F.S.

²² Section 327.35, F.S.

²³ Section 327.35(2)(a)1., F.S.

²⁴ Section 327.35(2)(a), F.S.

²⁵ Section 327.35(2)(a)2.a., F.S.

²⁶ Section 327.35(2)(a)2.b., F.S.

²⁷ Section 327.35(6)(a), F.S.

²⁸ *Id.*

²⁹ *Id.*

- A mandatory term of imprisonment of at least 10 days and a mandatory 30-day vessel impoundment or immobilization for a second conviction that occurs within a period of 5 years after the date of a prior conviction.³⁰

Any person who is convicted of a third BUI for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a third degree felony.³¹ Additionally, the court must order imprisonment of at least 30 days, and order the impoundment or immobilization of the vessel for 90 days.³²

Any person who is convicted of a third BUI for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months.³³

Any person who is convicted of a fourth or subsequent BUI, regardless of when any prior conviction for a violation of this section occurred commits a third degree felony. The fine imposed for a fourth or subsequent violation may not be less than \$2,000.³⁴

Any person who commits BUI, who operates a vessel, and who by reason of such operation causes or contributes to causing:

- Damage to the property or person of another commits a first degree misdemeanor.³⁵
- Serious bodily injury to another commits a third degree felony.³⁶
- The death of any human being commits BUI manslaughter and commits a second degree felony.³⁷
- If at the time of the accident the person knew, or should have known, that the accident occurred and failed to give information and render aid, such person commits a first degree felony.³⁸

Any person who is convicted of a BUI and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a BUI and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, must be punished.³⁹

- By a fine of:
 - Not less than \$1,000 or more than \$2,000 for a first conviction.⁴⁰
 - Not less than \$2,000 or more than \$4,000 for a second conviction.⁴¹
 - Not less than \$4,000 or a third or subsequent conviction.⁴²

³⁰ Section 327.35(6)(b), F.S.

³¹ Section 327.35(2)(b)1., F.S.

³² Section 327.35(6)(c), F.S.

³³ Section 327.35(2)(b)2., F.S.

³⁴ Section 327.35(2)(b)3., F.S.

³⁵ Section 327.35(3)(c)1., F.S.

³⁶ Section 327.35(3)(c)2., F.S.

³⁷ Section 327.35(3)(c)3.a., F.S.

³⁸ Section 327.35(3)(c)b.,F.S., penalties for this subsection does not require that the person know that the accident resulted in injury or death.

³⁹ Section 327.35(4), F.S.

⁴⁰ Section 327.35(4)(a)1., F.S.

⁴¹ Section 327.35(4)(a)2., F.S.

⁴² Section 327.35(4)(a)3., F.S.

- By imprisonment for:
 - Not more than 9 months for a first conviction.⁴³
 - Not more than 12 months for a second conviction.⁴⁴

Additionally, the court must place any person convicted of BUI to monthly reporting probation and must require attendance at a substance abuse course specified by the court. The agency conducting the course may refer the offender to an authorized service provider for a substance abuse evaluation and treatment.⁴⁵

Boarding a vessel (Search)

The Florida Supreme Court has held that the state's interest in random stopping and brief detention of motorboats for limited purposes outweighs a person's interest in being completely free from such limited intrusion.⁴⁶ No officer shall board any vessel to make a safety or marine sanitation equipment inspection if the owner or operator is not aboard. When the owner or operator is aboard, an officer may board a vessel with consent or when the officer has probable cause or knowledge to believe that a violation of a provision of this chapter has occurred or is occurring. An officer may board a vessel when the operator refuses or is unable to display the safety or marine sanitation equipment required by law, if requested to do so by a law enforcement officer, or when the safety or marine sanitation equipment to be inspected is permanently installed and is not visible for inspection unless the officer boards the vessel.⁴⁷ However, law enforcement officers of the FWC have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products.⁴⁸

Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules adopted under this law. Such law enforcement officers may arrest any person in the act of violating this law, the rules of the FWC, or any of the laws of this state. It is unlawful for a person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him or her by law or rule of the FWC.⁴⁹

Livery

Section 327.54, F.S., provides safety regulations for liveries and livery vessels. A vessel that is leased, rented or chartered to another for consideration is a livery vessel.

⁴³ Section 327.35(4)(b)1., F.S.

⁴⁴ Section 327.35(4)(b)2., F.S.

⁴⁵ Section 327.35(5), F.S.

⁴⁶ *State v. Casal*, 410 So. 2d 152 (Fla. 1982).

⁴⁷ Section 327.56 (1), F.S.

⁴⁸ Section 379.3313, F.S.

⁴⁹ Section 379.3313(1), F.S.

A livery is a person who advertises and offers a livery vessel for the use by another in exchange for any type of consideration when such person does not also provide the lessee or renter with a captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. The following are not a livery.

- The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration.
- A public or private school or postsecondary institution.⁵⁰

III. Effect of Proposed Changes:

The bill amends several statutes relating to boating safety, and provides that the act may be cited as “Lucy’s Law.”

The bill amends s. 327.30, F.S., to provide penalties for leaving the scene of a vessel accident or injury. If a person leaves the scene and the accident results in:

- Property damage only, the person commits a first degree misdemeanor.⁵¹
- Injury to a person other than serious bodily injury, the person commits a third degree felony.
- Serious bodily injury, the person commits a second degree felony.⁵²
- The death of another person or an unborn child, the person commits a first degree felony.⁵³
 - A person commits a third degree felony if he or she was operating a vessel involved in an accident that results in death of another person or an unborn child and provides a false statement to an investigating law enforcement officer.⁵⁴

The bill amends s. 327.33, F.S., to provide penalties for careless operation of a vessel. Current law provides that careless operation of a vessel is a noncriminal infraction. Under the bill, careless operation of a vessel that:

- Does not result in an accident, is a noncriminal violation.
- Results in an accident that does not cause serious bodily injury, is a third degree felony.
- Results in an accident that causes serious bodily injury, is a second degree felony.
- Results in an accident that causes the death of another person or an unborn child, is a first degree felony.

⁵⁰ Section 327.54(1)(c), F.S.

⁵¹ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 and 775.083, F.S.

⁵² A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

⁵³ A first degree felony is punishable by a term of imprisonment not to exceed 30 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

⁵⁴ A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

The bill creates s. 327.35105, F.S., to provide that the driver license of a person who is convicted of a violation of a violation of reckless or careless operation of a vessel⁵⁵ or BUI⁵⁶ must be suspended until all orders of the court have been satisfied.

The bill amends s. 327.02, F.S., to revise the definition of the term “livery vessel” to mean a vessel leased or rented.

The bill amends s. 327.54, F.S., to revise the definition of the term “livery” to mean a person who advertises and offers a livery vessel for use by another in exchange for any type of consideration when such person does not also provide *or does not require* the lessee or renter to *provide as a condition of the rental or lease agreement a person licensed by the United States Coast Guard to serve as master of the vessel or to captain or manage the vessel*. The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration is not a livery. A public or private school or postsecondary institution located within this state is not a livery.

The bill amends s. 782.072, F.S., to revise the definition of the term “vessel homicide” to mean the killing of a human being *including the death of an unborn child*⁵⁷ *caused by injury to the mother*, by operation of a vessel⁵⁸ by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

⁵⁵ Section 327.33, F.S., provides that it is unlawful to operate a vessel in a reckless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person is guilty of reckless operation of a vessel. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). A person who violates this subsection commits a first degree misdemeanor.

⁵⁶ Section 327.35, F.S., provides that a person is guilty of boating under the influence and is subject to punishment if the person is operating a vessel within this state and the person is under the influence of alcoholic beverages, and any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person’s normal faculties are impaired. Such person commits a first degree misdemeanor.

⁵⁷ Section 775.021(5)(e), F.S., defines an “unborn child” as a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.

⁵⁸ Section 327.02(34), F.S., defines “operate” to mean to be in charge of, in command of, or in actual physical control of a vessel upon the waters of this state, to exercise control over or to have responsibility for a vessel’s navigation or safety while the vessel is underway upon the waters of this state, or to control or steer a vessel being towed by another vessel upon the waters of the state.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on the Department of Corrections due to the increase in penalties which may result in an increase in beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.02, 327.30, 327.33, 327.54, and 782.072.

This bill creates section 327.35105 of the Florida Statutes.

This bill re-enacts section 327.395 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 4, 2025:

The committee substitute:

- Removed the provision that struck the probable cause requirement for a law enforcement officer to require a person to submit to a blood test.
- Removed the provision requiring all persons to have specified documents in their possession while operating a vessel.

- B. **Amendments:**

None.